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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,391	11/21/2003	Karen M. Szymas	16027	2556
4859	7590	08/25/2004	EXAMINER	
MACMILLAN SOBANSKI & TODD, LLC ONE MARITIME PLAZA FOURTH FLOOR 720 WATER STREET TOLEDO, OH 43604-1619			HAYES, BRET C	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/719,391	SZYMAS, KAREN M.
	Examiner Bret C Hayes	Art Unit 3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5,11-13 and 18 is/are rejected.
- 7) Claim(s) 1,2,4,6-10 and 14-17 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/20/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____ .                                   |

## DETAILED ACTION

### *Claim Objections*

1. Claims 1 and 2 are objected to because of the following informalities: claim 1, line 3, “a rear least one attachment point” appears to sound awkward – as though the front attachment point were “greatest” somehow – examiner suggests --at least one rear attachment point--, for clarity; and claim 2, line 2, “said one of said first and second...” may be a bit overkill – examiner suggests removing the “said “ before “one”, for clarity. Appropriate correction is required. Examiner also reminds Applicant to amend any dependent claims as necessary in accordance with the above-suggested changes.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,378,278 B1 to Talbot (as cited by Applicant).

4. Re – claim 1, Talbot discloses the claimed invention including an adaptive saddle comprising: a saddle body **10** having a front attachment point and a rear attachment point, see Fig.4, for example; and a support assembly **212** releasably attached to the rear attachment point.

5. Re – claim 2, Talbot further discloses a vertically extending support member **24** having a lower end and the lower end engaging one of the front and rear attachment points, see Figs. 4b and 4c, for example.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 11 – 13 and 18 are rejected under 35 U.S.C. 103(a) as obvious over Talbot.

8. Re – claim 5, Talbot further discloses a headrest 22 attached to the support member 24.

Talbot discloses the claimed invention except for the headrest being adjustably attached. It would have been obvious to one having ordinary skill in the art at the time the invention was made to adjustably attach the headrest, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

9. Re – claims 11 and 12, Talbot discloses the claimed invention as applied above. See rejection of claims 1 and 5 above – the headrest 22 being one body supporting device as claimed.

10. Re – claim 13, Talbot discloses the claimed invention as applied above. Talbot further discloses a pair of arm members 16 attached to and extending outwardly from the support member 24, in light of the obviousness rejection above.

11. Re – claim 18, see rejection of claim 5 in view of claim 13 above.

12. Claim 3 is rejected under 35 U.S.C. § 103 as being unpatentable over Talbot in view of FR 2 788 264 – A1 to Vaute.

13. Talbot discloses the invention substantially as claimed as applied above. Talbot further discloses the support assembly adjustably mounted to the rear attachment point, as in Fig. 4a, for

example, **74**. However, Talbot does not disclose the support assembly comprising a trunk pad separate from the support assembly.

14. Vaute teaches a trunk pad **26** separate from a support assembly **25** in the same field of endeavor for the purpose of supporting a rider.

15. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Talbot to include the separate trunk pad as taught by Vaute in order to support a rider.

***Allowable Subject Matter***

16. Claims 4, 6 – 10 and 14 – 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record neither discloses nor fairly teaches the recited limitations of the claimed invention including, but not limited to: forearm pads, handgrip assemblies, and a transverse frame member, each being removably and adjustably attached to the support member.

18. This statement is not intended to necessarily state all the reasons for allowance or all the details why the claims are allowed and has not been written to specifically or impliedly state that all the reasons for allowance are set forth (MPEP 1302.14).

***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached at (703) 306 – 4198. The fax number is (703) 872 – 9306.

bh

8/17/04

MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER